

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 05/26/2020
Agenda Item: 6**

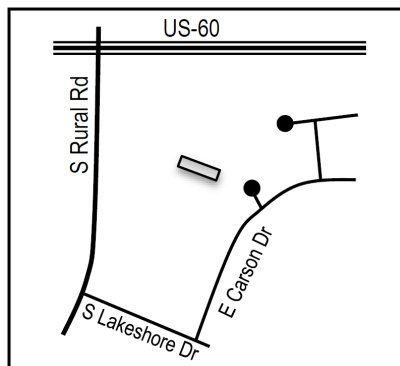
ACTION: Request a Use Permit to allow a massage establishment for **YOSHI MASSAGE SPA**, located at 4415 South Rural Road.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: YOSHI MASSAGE SPA (PL200015) is requesting a Use Permit to operate a massage establishment in an existing suite at 4415 South Rural Road, within the PCC-2, Planned Commercial Center General. A Use Permit for a massage establishment was approved in 2011 for this location and a Use Permit transfer was approved by staff in July 2019 to Yoshi Massage Spa. A request for a Use Permit to extend the hours of operation was continued by the Development Review Commission on April 28, 2020. The request includes the following:

ZUP200011 Use Permit to allow a massage establishment.



Property Owner	MZH, LLC
Applicant	Michael Harris, Yoshi Massage Spa
Zoning District	PCC-2
Building Area	1,000 s.f.
Vehicle Parking	No change in demand
Bicycle Parking	No change in demand
Hours of Operation	9 a.m. - 9 p.m., Daily

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Dalton Guerra, Planner I (480) 350-8652

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Dalton Guerra, Planner I

Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The applicant requested a Use Permit transfer from a previous massage establishment in the same suite (Yushi Massage) on July 12, 2019. The transfer was approved, but the applicant wants to deviate from the hours of operation that were originally approved for the prior establishment (9 am – 7 pm). Therefore, the applicant is requesting a new Use Permit with modified hours of operation. On April 28, 2020 the Development Review Commission continued the request to the May 26, 2020 DRC hearing to allow more time for city staff to provide a recommendation. In that time, staff has come to a recommendation of approval for the request to extend the hours of operation.

PUBLIC INPUT

Staff received a letter of opposition regarding this request on May 13, 2020. The letter is included in the attachments for this report. Staff also received a call of support on May 15, 2020. The caller stated that he is a long-time customer of Yoshi Massage and believes there is a shortage of Massage Establishments in Tempe.

POLICE INPUT

Tempe Police Department informed Planning Staff that one of the owner's massage establishments located in the City of Glendale is currently going through a license revocation process scheduled to be heard in May. Since the last hearing, the City of Glendale has not provided city staff any additional information. Therefore, PD is comfortable with a recommendation of approval and has no issues with the request for extended hours.

USE PERMIT

The proposed use requires a Use Permit to operate a massage establishment within the PCC-2 zoning district. A new Use Permit is required to be approved due to the proposed changes to the previously approved hours operation.

Section 6-308 E Approval criteria for Use Permit (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic;* the use of the suite is remaining the same and therefore there is not expected to be an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions;* all business is conducted indoors and there is no change in use being proposed for this suite from a massage establishment.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan;* massage establishments are a permitted use subject to a Use Permit and this site has been approved for a Use Permit in the past.
4. *Compatibility with existing surrounding structures and uses;* this site is in an existing commercial center with a number of commercial businesses operating in adjacent suites.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public;* the use is not changing from a massage establishment and there is a security plan submitted with the City of Tempe Crime Prevention Unit.

REASONS FOR APPROVAL:

Based on the information provided by the applicant, public input received, and the above analysis staff supports approval of the requested Use Permit. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITION(S) OF APPROVAL: (Non-standard conditions are identified in bold)

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. The Use Permit is valid only after a Building Permit has been obtained, the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

USE PERMIT:

- The Use Permit is valid for Yoshi Massage Spa and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of the permit.
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through <http://www.tempe.gov/zoning> or purchase from Development Services.
- All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.
- Any intensification or expansion of use shall require a new Use Permit.
- All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.

HISTORY & FACTS:

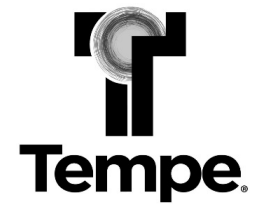
- November 22, 2011 Hearing Officer approved (PL110373/ZUP11098) a Use Permit to allow a massage establishment for Yushi Massage Spa, located at 4415 South Rural Road within the PCC-2 zoning district.

- July 12, 2019 Community Development Department Staff approved (PL190152/ZUP190051) a Use Permit Transfer to allow a massage establishment for Yoshi Massage Spa, located at 4415 South Rural Road within the PCC-2 zoning district.

- April 28, 2020 Development Review Commission continued the request for a Use Permit to allow a massage establishment for Yoshi Massage Spa, located at 4415 South Rural Road.

ZONING AND DEVELOPMENT CODE REFERENCE:

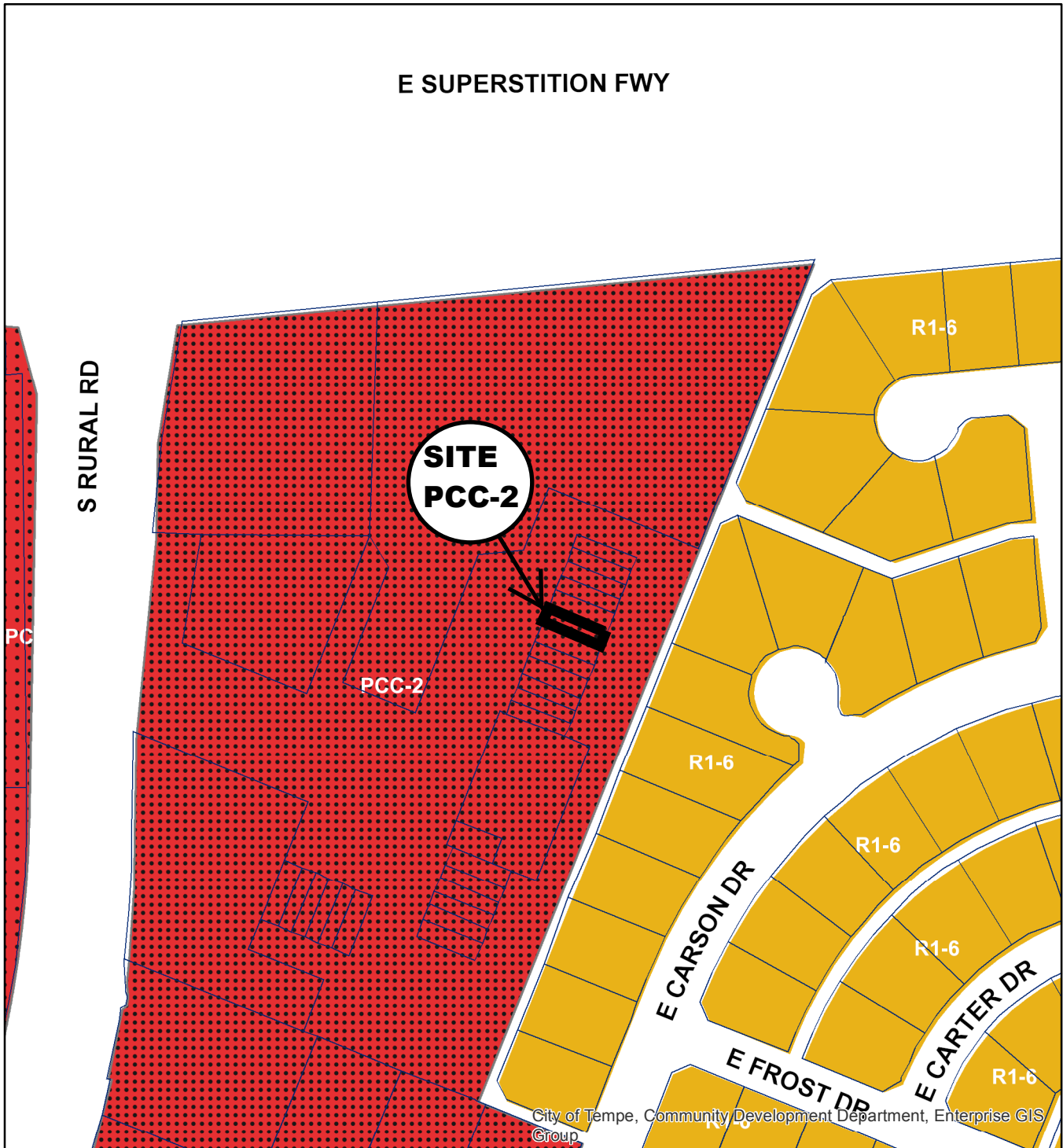
- Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts
- Section 6-308 Use Permit






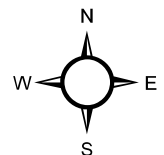
DEVELOPMENT PROJECT FILE
for
YOSHI MASSAGE SPA
(PL200015)

ATTACHMENTS:

1. Location Map
2. Aerial
3. Letter of Explanation
4. Site Plan
5. Floor Plan
6. Site Context Photos
7. Public Input (Letter of opposition, received on May 13, 2020)



-  Planned Commercial Center Neighborhood (PCC-1)
-  Planned Commercial Center General (PCC-2)
-  Single-Family Residential (R1-6)

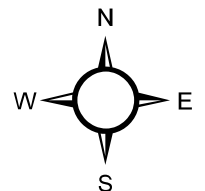


4415 SOUTH RURAL ROAD

PL200015



Aerial Map



harrismr43@yahoo.com

From: <harrismr43@yahoo.com>
Date: Monday, February 10, 2020 5:26 PM
To: <dalton_guerra@tempe.gov>
Attach: yoshi use per1.pdf; yoshi use per2.pdf; yoshi use per3.pdf; yoshi use per4.pdf; FullSizeRender (2).jpg
Subject: use permit

objective for use permit;

Yoshi Massage Spa
4415 S Rural Rd #7
Tempe AZ 85282

We are requesting a change in open days and hours

currently; mon-sat open 8:00AM close 7:00PM
requesting; mon-sun open 9:00AM close 9:00PM

the currant staffing is always one licensed tech on site
the requested time day/time change will be always one licensed tech on site when busy no more than two

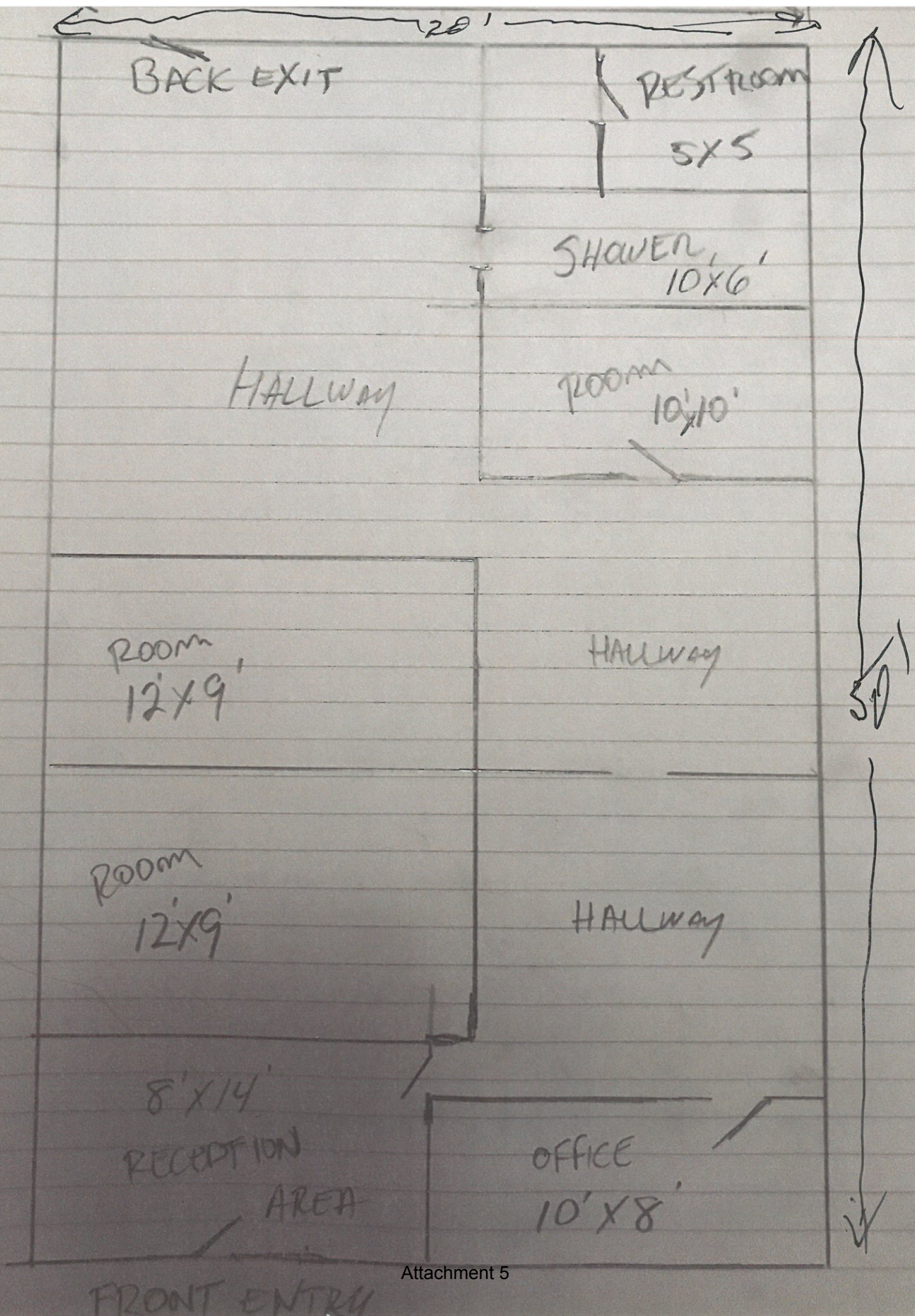
we bought this store last year and transferred the license to MZH, LLC (Michael Harris) through the City of Tempe. Unknowing the store had limited open days/hours, it was never brought to our attention, (I know, shame on us) The day/time restrictions were brought to our attention by Tempe PD on the final walkthrough. We thought it would still work out with the limited operation times, however we found economic shortfall with the limited hours. The added day and longer hours will provide a better opportunity to serve a few more customers per month, making this store in a profitable mode.

many of the neighboring stores in this strip mall area are open more days and hours

parking the extended days and hours would not be impacted

MZH LLC
Michael R Harris, officer
8777 Shady Peak Way
Las Vegas NV 89123

702-806-4984



MASSAGE

OPEN
YUSHI
MASSAGE
THERAPY

**BODY
MASSAGE**
MEN & WOMEN WELCOME
GIFT CERTIFICATES
AVAILABLE

HOURS
AM 9 - 4 PM
DAYS

Letter of opposition for Yoshi Massage Spa (PL200015)

05/13/2020

Hello Mr. Guerra,

1. I am not comfortable with massage parlors generally speaking.
2. There is no shortage of massage parlors in Tempe.
3. I believe they are a "draw" to those individuals who may not have the most benign interests towards those living in the surrounding neighborhoods. "Bottom Feeders" tend to congregate around "chum"...
4. By controlling the business we allow in our neighborhoods, we set the tone for the Tempe lifestyle. I don't see the elevation of intellect or citizen awareness and social participation through "massage parlors".

Thank you for this opportunity to speak to a social issue in the City of Tempe.

Bob Rauperstrauch

248 W. Calle De Caballos

Tempe